

**CITY OF TAKOMA PARK, MARYLAND**  
**(Adopted 9/13/04)**

**PRESENTATION, REGULAR MEETING & WORKSESSION**  
**OF THE CITY COUNCIL**

**Monday, January 12, 2004**

**OFFICIALS PRESENT:**

Mayor Porter	Deputy City Manager Hobbs
Councilmember Austin-Lane	City Clerk / Treasurer Waters
Councilmember Barry	City Attorney Perlman
Councilmember Elrich	ECD Director Daines
Councilmember Mizeur	Human Resources Coordinator Hampton
Councilmember Seamens	Public Works Director Lott
Councilmember Williams	Arborist Linkletter

The City Council convened at 7:41 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

**COUNCIL COMMENTS**

Councilmember Barry thanked Senior Planner Inerfeld who is working on a traffic problem on New Hampshire Avenue at the car wash on Holton Avenue. There is a dangerous situation, particularly on the weekend when cars cue to make the turn into the car wash. He has met with the owner of the car wash and is working on a solution.

Councilmember Seamens commented on Municipal Government Week (MGW) that is sponsored by the Maryland Municipal League (MML). The intent is to raise awareness in the community about municipal government. He asked whether the City is going to do anything this year with the program, offering to volunteer to work on this.

City Clerk Waters responded that there is nothing scheduled yet, but that she would be happy to provide Mr. Seamens with the information received from MML.

Councilmember Mizeur announced a public safety forum tomorrow night at 7:00 p.m. in the Council Chambers for Ward 2 residents. She commented on some of the things that the Police Chief will discuss with those present. The Chief has agreed to talk with us about these issues and hear citizen concerns.

Councilmember Austin-Lane said that she is thrilled with the Arts & Humanities Commission

(AHC) effort to kick-off the art panel project this weekend. She commended them for their endeavor.

Mr. Seamens asked whether they have enough groups to design the panels.

Ms. Austin-Lane said that she last heard that there are a couple of openings and referred him to ECD Director Daines.

### **ADOPTION OF MINUTES - 8/4, 9/2, 9/8, 9/22, 10/7, 10/13**

Ms. Waters confirmed that copies were provided to former Councilmembers for review and that a response was received from Carol Stewart, indicating no revisions.

Moved by Williams; seconded by Austin-Lane.

The minutes were adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

### **PUBLIC COMMENTS**

Jean Craig, 7129 Carroll Avenue commented that she originally came to read a letter from Maria Peppel, requesting that the Council find persons to resolve the problem of Hevias rental unit. The current renter is a single mother with two small children. She remarked about the condition of the apartment. The Hevias have missed the money from rental of the efficiency unit. They will be distressed in losing the income from the units. Ms. Craig indicated that she contacted Linda Walker about this situation who advised that rental inspections would need to be handled through the county. She referred to a letter that was forwarded to the county, expressing a strong desire to find an answer to the problem. She asked that the City arrange for a waiver of the inspection except that the apartment be determined safe to live in. The future tenant is aware of the poor conditions and would not be bound to a lease.

Mayor Porter noted a response to Mr. Cassidy that does not speak to the issues raised by Ms. Craig. Part of this has to be addressed in conjunction with the move that the Hevias will be making into the new house.

Ms. Craig said that there are residents who would like to see this problem singled out to be resolved by itself.

Ms. Porter indicated that she talked to the City Manager today to arrange a meeting with city and county staff to discuss the concerns.

Beverly Habada remarked that it is a pleasure to represent CUC as President of the Alumni

Association. For the next year, she will be in this position at a time when the college is celebrating its 100<sup>th</sup> anniversary. She brought some calendars tonight for the Council and from time-to-time, will have updates on things taking place. The Council will not want to miss events on November 30. CUC first opened its doors in 1904. She stated that she will be sending invitations for events throughout the year.

## **PRESENTATION**

### **1. Stormwater Drainage on Private Property.**

Ms. Porter noted that this presentation is a follow-up to a previous discussion. We now have a representative from the county here to speak to this issue.

Public Works Director Lott gave a brief overview of the background. We were faced with two stormwater management issues. In exploring these issues, the question was raised about whether the city should continue in the business of stormwater management. We looked at the county fee and at the ad valorem tax. Staff was asked to talk to the Council about how it deals with public conflicts through the Montgomery County Public Nuisance clause.

Ms. Porter added that the Council was working under the assumption at the last discussion that the ad valorem tax applies to our residents. We are now being told that this tax does not apply to our residents.

Robert Dejter, Montgomery County Department of Housing and Community Affairs explained how the county deals with drainage on private property. These complaints are problematic. They require a lot of staff time and are most often difficult to resolve. We ask that complaints are submitted in writing. We enforce this under the public nuisance clause of Chapter 26. He read from the Code. It does not directly address water run-off. There is no public nuisance specifically for water run-off in county law. We use this section. Under the section that we use in Chapter 26(9)(a)(12), there is a provision for remedy. When we investigate a complaint we assess the situation. To enforce against a property owner, we have to find that the owner has taken some action to create the damage to the neighboring property within the last year. We see several 100 of these complaints each year. If we see a situation that rises to the level of violation, we put the owner on notice to correct the situation within 30 days. We could then issue a second, final notice. If the situation is still not corrected, we could issue a civil citation and take the case before a District Court Judge. Over the last 9 years, we have only written a handful of citations. The reason is varied. The majority of owners correct the deficiencies. Some owners will take matters in their own hands and pursue legal action privately. In cases where we have gone to court, the case was typically upheld.

Ms. Porter asked City Attorney Perlman whether this is one of the sections of the county law that does not cover the city.

City Attorney Perlman indicated that this section covers the city.

Ms. Austin-Lane questioned why this is considered a weak basis for the city to cite residents for violations.

Ms. Perlman responded with her thinking of why this would be a weak provision to cite for violations. She said she would like to see stronger language if the city decides to start enforcing this.

Councilmember Elrich asked if this is something that we can enforce.

Ms. Perlman responded that we have adopted this as our law so that Montgomery County Enforcement could conduct property inspections. We have exclusive authority for stormwater and property maintenance. The county does the inspections as agents of the city.

Mr. Dejter clarified that if it were to occur in a multi-family property, the county would have jurisdiction. If it were a single family property, the county would not have jurisdiction.

Ms. Austin-Lane confirmed that only if the property were owner-occupied or commercial would it fall on the city to enforce.

Mr. Elrich confirmed that Ms. Perlman would want to strengthen the law to clarify her point.

Ms. Perlman explained that she does not think that the county's provision is on point enough and would like to see it stronger if we want to go into this area. We would still have the equivalent of the county's provisions.

Mr. Elrich said that he understands the one year window. However, what if you have case of a person with a sump pump in a basement and have the water ejection that creates a run-off trail on neighboring property? How would the county handle that situation?

Mr. Dejter remarked about some of the common situations (e.g., black plastic pipe directing water from a down spout onto edge of property). We order remedies in these situations. In the case of a sump pump, it is relatively easy to deal with because the cause is straightforward. It does not take expertise to resolve.

Mr. Elrich confirmed that the county does not require the services of an engineer to examine the site. What would you say to a situation where a person is directing water down a driveway into the street where it will become an icy patch in the street?

Mr. Dejter indicated that they get some calls about this type of case. When it gets to the street, it becomes difficult. At some point, the owner's responsibility ends.

Councilmember Williams said that he wants a clearer understanding of the types of things that

we are talking about when we refer to the situations that have existed for longer than 16 months. Talk more about on-going versus one point in time.

Mr. Dejter explained that a written complaint requirement facilitates getting some background on a situation. There may be cases where we make an exception to the window of time limitation. He said that he would love to have a law that directly addresses water run-off nuisance issues.

Ms. Austin-Lane commented that she is not clear about how the county enforces things where the damage is not to a structure (e.g., land erosion).

Mr. Dejter referred to the language from the County Code "...or any part of them..." (i.e., any part of a dwelling). Could one make the argument that a lawn or driveway would be included? He would respond in the affirmative. He said that he is not aware of any challenge at the departmental or court level that has dealt with what the language encompasses. The language is working for us.

Ms. Perlman asked whether the county has gotten abatement orders and enforced them.

Mr. Dejter responded in the affirmative. Sometimes people will bring in experts to make their complaint case. The county does not bring in an engineer, but often the responsible party will bring in an engineer if an abatement order is issued.

Ms. Austin-Lane questioned how the county follows-up and determines that a case is resolved.

Mr. Dejter stated that they often hear from the complainant. He commented on the effects of the heavy rainfall in the past couple of years.

Ms. Porter confirmed that the county does this work without having stormwater engineers on staff. She noted his comment that the Code is written in "common sense." How would you deal with a problem that is less clear without an engineer?

Mr. Dejter responded that this is where the great difficulty comes into play. It is not so much a matter of not having an engineer. We need documentation. Inspectors go on site visits and take photos. We will go out in the rain to witness a concern. If we do not see a problem and cannot document the problem first hand, we will not go forward with enforcement.

Ms. Porter questioned what occurs when an inspector does not see the conditions that have affected surface run-off.

Mr. Dejter said again, this is a situation where documentation is very important. We rely on those making the complaint and let them know that we will need them to provide the evidence to make the case if it goes to court.

Ms. Porter observed that it sounds like his office is usually able to resolve cases of visible cause and effect. If the case gets more complicated, you establish that there is a problem, but it is a jumping off point for the two parties to go to court for resolution.

Mr. Dejter agreed.

Ms. Porter indicated that the city has had to deal with a number of stormwater type issues. Some have been hard to address. She noted the situation with homes on a slope and the run-off that comes down the slope.

Mr. Dejter commented that they tell the complainants that unless they can prove that the uphill residents did something to create the problem, then the county cannot do enforcement. Water runs down hill.

Ms. Porter agreed except in cases where there has been some change uphill.

Mr. Dejter concurred. In a situation where water has been channeled (e.g., installation of curbing), there might be a case for enforcement.

Mr. Barry noted the 300 cases of last year. The city may be looking at 10% or less in a year. What staff time is involved?

Mr. Dejter explained that it depends on the case and complications. Some cases can become a time vacuum.

Mr. Barry asked about how much time would be involved with 3-4 complicated cases in a year.

Mr. Dejter said that he cannot estimate.

Mr. Lott questioned the time spent on an average case.

Mr. Dejter remarked that in a simple case of an inspector responding to the complaint it could take a little as an hour (e.g., travel time 20 minutes; inspection 20 minutes; write-up 20 minutes).

Ms. Mizeur noted the disparity of the county's ad valorem tax and the city's fee. Historically, when WSSC gave stormwater back to the local jurisdictions, it was before unification and was done at the state level. Perhaps, it makes sense for us to step back and reconsider this. Are there any other municipalities that manage their own stormwater?

Ms. Perlman identified Rockville, Gaithersburg and Bowie, as examples.

Ms. Mizeur asked if we have adopted the county's code to do inspections and issue citations.

Ms. Perlman responded that it was only adopted effective August 2003.

Ms. Mizeur questioned whether we have a legal responsibility to enforce the same way that the county is handling these cases. Residents in city have been waiting for us to solve this problem for them. Is there any way for us to avoid following through and enforcing the code that we have adopted?

Ms. Perlman responded that it is within our rights about whether to enforce these provisions.

Ms. Porter observed that it sounds like Ms. Perlman is indicating that there are other interpretations. We heard at the last briefing, that the level of this service at the county is going up.

Mr. Williams stated that if we were to compare fees and fees/taxes, it would cost the same.

Ms. Austin-Lane said that she heard that the county is not doing the same routine maintenance on the conveyance system as what is provided by the city.

Ms. Porter commented that it is clear that the Council will need a follow-up discussion about this, but that it seems that the original issue is something that the county handles under its housing code.

Ms. Austin-Lane added that this would be a new service. We either have to implement it as a new service or to contract with the county for them to do the work.

Ms. Porter stated that it needs further discussion.

Mr. Elrich asked whether we would get a rebate for offering this service. The county is not currently offering this rebate to the city.

Ms. Porter commented that this is overall enforcement of property maintenance.

Mr. Elrich said that we should ask for a rebate. If we are going to start doing this, we would have a good claim for a rebate. Residents are already paying the tax to the county for this service.

Ms. Porter noted that staff will need to follow-up on these questions. This presentation has given her a better handle about what the county does and about the nature of the complaints handled by the county.

Ms. Austin-Lane asked if there is some reason that the county could not enforce the county's public nuisance law in the city.

Ms. Perlman responded that we have essentially chosen to do property maintenance housing code inspections.

Mr. Williams observed that it sounds like we have a choice.

Ms. Perlman explained that we could repeal our law and have no code enforcement department. The county would then have to provide enforcement to the city.

Mr. Elrich asked whether it would have to be repealed in entirety.

Ms. Porter cautioned that we do not want to take on something that is expensive to enforce.

Mr. Seamens said that there might be other opportunities for rebates in this discussion which we should explore.

Ms. Perlman indicated that she does not know that there has ever been a rebate for any of the housing services that are provided by the city.

Mr. Elrich commented that if you have laws but do not exercise the authority, you will not get a rebate.

Ms. Porter thanked Mr. Dejter and staff for the presentation.

## **REGULAR MEETING**

### **2. Resolution of Appreciation - John and Andrea Urciolo.**

ECD Director Daines acknowledged the contributions of Andrea and John Urciolo, noting some of their contributions to the community. Andrea's most recent contribution in Old Town is the terracotta waste receptacles that replaced the barrel-like containers. John is being recognized for his recent purchase of some waste containers.

Moved by Austin-Lane; seconded by Elrich.

Ms. Austin-Lane seconded Ms. Daines' remarks. She thanked the Urciolo's for their contributions to the Old Town area, noting that the parking garage discussion is moving forward and will be a great enhancement to the area.

Ms. Porter thanked them both for their contributions. She noted John's involvement in the community over the years and Andrea's work with the Street Festival. Both have done so many things for the community that are great benefits to the city. Their contributions are very much appreciated.

Mr. Williams said that he has appreciated the synergy they have brought, more recently as a couple, than did previously as individuals. The sum of the whole is greater than that of individual parts.

Resolution #2004-2 (John Urciolo) and Resolution #2004-3 (Andrea Urciolo) were adopted



unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**RESOLUTION #2004-2**

**RESOLUTION #2004-3**

**(Attached)**

The resolutions were presented.

John Urciolo remarked that he is very humbled by something like this because he really believes that the Council gives generously of its time for the betterment of the city. Hopefully, we will continue to work toward the parking garage for Old Town. He thanked the Council.

**3. 2<sup>nd</sup> Reading Ordinance re: City Manager Search Firm.**

Human Resources Coordinator Hampton recalled last week's first reading ordinance awarding Mercer with the contract. Some questions were raised. (1) What is Mr. Mercer's ability to work directly with the City? Mr. Mercer said that he would be available. (2) What does Mr. Mercer see as his role for interaction with the citizens committee and Council? He sees himself as attending the citizen group and Council meetings. (3) What are the costs of the individual elements in his proposal? He broke-out the costs for the individual services and noted his hourly rate.

Ms. Porter observed that there are similar fees from group-to-group.

Ms. Austin-Lane said that she was able to view the video from the evening when the vendors made presentations. She noted that the travel costs for the applicants were not in the contract.

Deputy City Manager Hobbs indicated that the city has paid this cost in past searches.

Moved by Elrich; seconded by Austin-Lane.

Ms. Porter noted that the Council talked about the reasons for selecting Mercer last week, recalling her concern that the person who would be our liaison would not be available to work with the City due to competing projects. However, Mr. Mercer has indicated that 3 of his 5 cases will be completed in next couple of weeks. One assumes that he would not take on more than he can do.

Ordinance #2004-1 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**ORDINANCE #2004-1**

**(Attached)**

Ms. Porter stated that there was a first meeting of the citizens selection committee on Thursday. They want Mr. Mercer to come to a meeting on January 22.

Ms. Hampton explained that she has talked to him about that date. He is going to be in Billings, Montana that day, but will make every effort to be there for the meeting that night. He may be a little late.

Ms. Porter commented that there is no direct flight between here and Montana. Do you want to suggest a different date to the committee?

Ms. Hampton responded that he thinks he can arrive around 7:30 p.m.

Ms. Porter encouraged the Council to also attend. The committee wants everyone to participate.

Ms. Hampton said that the meeting will be at 7:30 p.m. upstairs in rooms 1 and 2.

#### **4. 1<sup>st</sup> Reading Ordinance re: Ethics Ordinance.**

Ms. Porter explained the need for the minor changes.

Ms. Perlman noted the two revisions.

Ms. Porter pointed out that tickets for sporting events are not permissible gifts.

Moved by Elrich; seconded by Williams.

Mr. Seamens confirmed that the ordinance also applies to employees.

Ms. Perlman noted the difference in what elected officials and employees can accept. Sporting tickets have been prohibited entirely.

Mr. Seamens asked what happens in the case of something that comes from someone who is not a sponsor of an event. We talked about the example of someone who donates sporting tickets to the city to include tickets that employees would use to chaperone events. Would the city now have to pay the cost of those tickets?

Ms. Perlman responded in the affirmative.

Ms. Mizeur questioned whether a person is allowed to accept certain things as relate to one's day job, outside of one's role as a City Councilmember. She noted that she works in the US Senate.

Ms. Perlman said that she would like to follow-up with a more considered response to this question.

Mr. Elrich asked if this would apply if someone gave the city 10 tickets for an event, knowing that there would be a couple of sponsors going along. Would that be deemed as gifts directly to employees? It seems there is a difference in tickets being given directly to someone.

Ms. Porter said that we will get legal responses prior to second reading. She noted her understanding from City Attorney Sigman that the city would have to pay for tickets for anyone who is a city employee. We can have this clarified.

Mr. Williams questioned what happens if the city is a sponsor of a sporting event.

Ms. Perlman responded that she is not sure that it would be a gift in that instance.

Mr. Williams provided the example of the Thunderbolts ball team.

Ms. Porter commented that Ethics training will be helpful.

Ordinance #2004-2 was accepted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**ORDINANCE #2004-2**  
**(Attached)**

**5. 1<sup>st</sup> Reading Ordinance re: Chapter 1. General Provisions and Chapter 2. Administration.**

Ms. Porter explained the ordinance which will effect revisions to the administrative chapters of the Code, noting last week's discussion. This is part of the on-going re-codification effort.

Ms. Perlman referred to one minor addition which is detailed on the salmon colored cover sheet.

Moved by Williams; seconded by Elrich.

Ms. Porter noted that this has been discussed at least twice before now.

Mr. Williams asked for assurance that there will be a follow-up discussion about the matter of Worksession minutes.

Mr. Barry congratulated the drafter of the ordinance for removing the wordiness of these chapters.

Ordinance #2004-3 was accepted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**ORDINANCE #2004-3**  
**(Attached)**

**6. Resolution re: State Revitalization Grant.**

Ms. Porter noted that this item was discussed last week.

Ms. Daines explained that the resolution will authorize staff to proceed with the identified projects. Funds are from a variety of sources (i.e., county matching funds, state bond allocation, CDBG). She noted the revision to the resolution text.

Ms. Austin-Lane confirmed the revision “Old Town Enchantments.” When will we have the break-out of the work on Carroll?

Ms. Daines responded. Staff will be bringing more information back to the Council on January 20 along with a discussion about the contract for work over to Eastern Avenue (Laurel Avenue). That project may have an impact on the work to come. There is some thought about extending some of the elements from the Laurel Avenue project further along Carroll. We will try to take advantage of the contract that will be coming up with the Tacoma Junction project. We want to maximize the impact of the funds.

Ms. Austin-Lane said that she wants to be sure that the Council is involved in the decision making for the \$275,000 expenditure.

Ms. Daines indicated that staff will have to come back to the Council for approvals for design proposals and contracts.

Ms. Austin-Lane recognized the tight time frame.

Ms. Daines stated that it is being factored into the schedule of presentations to the Council. The Council will be hearing a lot from staff on these projects over the next 6 months.

Mr. Williams remarked that it is important that we are informed of the initial set of things that we are going to do. There are a number of his residents who are concerned about particular pieces of the project. The Westmoreland Avenue Citizens Association is already providing feedback about concerns. People want to be poised to weigh-in on the proposals.

Ms. Austin-Lane said that it would be helpful to see an itemization of what this money could be used for and what is prohibited (e.g., some money cannot be used for roadways).

Ms. Daines explained that because it is state money and the work would be on a state roadway, the funds cannot be used for a project that the state would otherwise do. She referred to the list of improvements that have been approved by the state at this time.

Ms. Austin-Lane asked if we could do curb extensions as falling under the category of sidewalk work.

Ms. Daines responded that we were asked by the state to remove curb extensions as a traffic calming element. We recognize that this is an issue for everyone.

Ms. Austin-Lane identified a couple of city roads affected by the project work.

Mr. Williams indicated that he would like to see information about the difficulties and restrictions on funds.

Ms. Daines noted that once the contract is awarded, staff would like to issue a calendar to outline the discussions and project completion. We will hold broader meetings, involving more mailings. Staff wants to ensure that lines of communication are open and that there are plenty of opportunities for feedback.

Ms. Austin-Lane compared this project to the Metro Branch Trail project development.

Ms. Daines stated that we have to ensure that the discussion continues to move forward.

Mr. Barry commented that Ward 6 residents are interested in the gateway enhancement element.

Ms. Daines assured him that contacts within Ward 6 will be included in the discussions.

Ms. Mizeur asked about the ranking of street improvements. When will a list be issued?

Mr. Lott responded that this discussion is coming up very soon. Staff will have a final meeting with consultants on January 15.

Ms. Mizeur remarked that she did not see anything in the Ethics Ordinance that would prohibit her from lobbying staff to get her streets higher on the list (in jest).

Moved by Williams; seconded by Elrich.

Anne Ludlow, Takoma Tower (President of Resident Council) said that she wants to make sure that residents' concerns are presented to the Council. We are interested in participating in more of these discussions. We have many people who use canes, walkers and scooters who have different problems than some others who use sidewalks. She noted the bumpy brick sidewalks on Laurel and the narrow curb cut at Westmoreland. She recognized the limited funds, but emphasized their concerns. She thanked the Council for its efforts to erect the crosswalk signs in the area. We are willing to participate and help in any way that we can.

Ms. Porter thanked her for her comments and advocacy on behalf of residents at the retirement center.

Ms. Austin-Lane said that Anne can help to facilitate this process by identifying a point person who can serve on the group that Ms. Daines is forming.

Resolution #2004-4 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**RESOLUTION #2004-4**  
**(Attached)**

**7. Resolution re: Arts & Humanities Commission (AHC).**

Ms. Porter noted that there is one opening on the AHC and that the Council interviewed two applicants.

Ms. Austin-Lane proposed the appointment of Kim Brown-Henderson (Motion); seconded by Williams.

Ms. Daines remarked that the AHC has adopted bylaws that allow for the creation of sub-committees to help on various projects. The sub-committee members do not have to be members of the AHC. Whoever is not appointed would be given this option.

Ms. Austin-Lane urged staff to make sure that Joan Curry is put in touch with the right people.

Mr. Seamens said that in looking at the needs in Ward 4, he sees Kim as a valuable asset in other areas. He noted that he has been encouraging her to address some of the minority issues at the Piney Branch Elementary School. She can benefit the students through work at that school. Consequently, he indicated that he will vote against her appointment to the AHC, strictly for the reasons he has identified. She can better benefit the ward through more work at the school—although he thinks that she is a good candidate for the AHC.

Ms. Porter commented that both candidates were well suited for appointment. She supported Kim's appointment but said she would be happy to consider a resolution to appoint Joan if a vacancy comes open.

Ms. Mizeur noted the distribution of members on the AHC. What wards are the applicants coming from?

Ms. Daines responded that she is not sure. The concern of the commissioners is that there remains a diverse membership, not one just based on ward distribution.

Ms. Austin-Lane observed that the ordinance allows for members outside of the city.

Mr. Williams agreed that we do not exclude someone who is not a resident. We have business owners who may not be residents but have specific interests in the community.

Resolution #2004-5 was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams; NAY: Seamens).

**RESOLUTION #2004-5**  
**(Attached)**

**8. Resolution re: PSCAC.**

Ms. Porter noted that this applicant is her neighbor and that she supports his appointment.

Moved by Mizeur; seconded by Barry.

Ms. Mizeur encouraged the Councilmembers to support this appointment, noting that she met him through the campaign process and urged him to apply.

Resolution #2004-6 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**RESOLUTION #2004-6**  
**(Attached)**

Following a scheduled break at 9:28 p.m., the Council reconvened in Worksession.

**WORKSESSION**

**9. Reforestation Program.**

Mr. Lott explained that staff is here to discuss with the Council the next steps to pursue in development of the plan.

Arborist Linkletter noted the five general goals of the plan. To track the assessment of trees will require some new software. We have already purchased one package and have been talking to the county. He predicted that we will discover canopy cover discrepancies in different areas of the city. There are a few different ideas in the plan about how to implement the program (e.g., satellite data to analyze canopy cover, develop on site nursery, etc.).

Mr. Elrich asked how long it takes for a tree to grow from 1-1.5 inches to 2+ inches in caliper.

Mr. Linkletter explained that it depends on the species. He commented on how the appropriate locations for different sized trees would be determined.

Mr. Elrich asked how long it would take to develop a stock of trees for planing, if we were to purchase the trees through the cheaper option.

Mr. Linkletter clarified his comment. We would be planting 1-1.5 inch caliper trees and would not ball and burlap the trees. We would make them available in buckets so that a home owner would have an easier time planting the trees.

Ms. Austin-Lane noted that we would have to wait a longer period of time for some of the smaller trees to grow before planting.

Mr. Linkletter added that some trees would not be ready for planting for up to 5 years.

Ms. Austin-Lane asked about the labor required to maintain the nursery.

Mr. Linkletter explained that it can be labor intensive at some points in the year (e.g., potting and re-potting).

Ms. Austin-Lane questioned whether we have staff to cover that work.

Mr. Lott responded that he could probably cover the maintenance with some of the Gardening Staff and others. We may also be able to find some personnel monies.

Ms. Austin-Lane said that she understands the long-term approach to maintenance of a nursery. With the money that we have, we could buy a lot of the \$6 trees and if we could cover maintenance with available staff resources, then it would just be a matter of some time before we would have the trees ready to plant. This would result in a large number of trees.

Mr. Linkletter clarified that even if we were to use \$10,000 and buy a lot of these smaller trees, we would still need to budget \$10,000 for right-of-way trees. Some of the trees in the nursery would be available to sell to residents.

Ms. Austin-Lane commented that she has heard from residents an interest in ways that the city can facilitate the tree ordinance. She said that she likes the way that this proposal is sounding.

Mr. Lott referred to the re-forestation milestones and timetable. We have gone into a fair amount of detail. Unless funding is denied, we plan to pursue this plan. Staff has briefed City Manager Finn on the plan. He feels it is a good plan. We feel that it is a good way to replenish public areas and to assist residents.

Ms. Mizeur stated that she was really impressed with the thought that has gone into this. In terms of funding options, would it be possible to have a program whereby residents donate trees and have a plaque identifying their donation?

Mr. Linkletter recognized her suggestion as a good idea.



Mr. Barry remarked that there may be people outside of the city who may have strong interest in reforestation. We may find that people would step-up and purchase a tree for placement on public property. This would heighten awareness of the city's efforts in this respect. We might also be able to get private sponsors and donations.

Mr. Seamens thanked Mr. Lott and Mr. Linkletter for their work on this plan, along with Mr. Finn for putting staff resources into this effort. He said that he is a little confused in trying to visualize the placement of the nursery. Has staff looked at estimates on how many trees we really need and the required space for growing/maintaining the trees?

Mr. Linkletter acknowledged the point. This is a work in progress. We do not know all of the needs. In terms of current available space, there are two areas that could be utilized. One space is behind some sheds.

Mr. Seamens expressed concern about soil conditions of those locations. An un-contained salt pile occupied some adjacent space until it was recently moved. Also, there is the mulch pile that may have some impacts.

Mr. Linkletter responded that the trees would all be plants in containers.

Mr. Seamens referred to the budgets for FY04 and FY05, observing a good bit of detail for the program to include some staffing estimates. It would be beneficial to have better estimates on what it will cost in terms of personnel to run a program like this.

Mr. Lott indicated that staff could get more specific on this point.

Ms. Austin-Lane asked that the Committee on the Environment (COE) be forwarded a copy of this document.

Mr. Lott stated that a copy will be forwarded to the COE as well as the Tree Commission.

Ms. Austin-Lane said she would be interested in knowing the number of trees that are planted in the city, both on public/private property versus those that survive.

Mr. Linkletter responded that it varies wildly. On some residential streets you will find trees that live for 100 years. The trees, however, in Old Town do not fare well. We would work to create an environment where we get trees to live as long as possible.

Ms. Austin-Lane asked if there are standard figures for trees planted on public property.

Mr. Linkletter responded that there are some numbers (i.e., the average right-of-way trees live 12 years).

Ms. Austin-Lane said that she is looking to determine some survival rate percentages.

Mr. Linkletter stated that since he has been here, he thinks we have only lost one tree that was planted in the right-of-way. He suggested a 90% survival rate as the answer.

Mr. Barry asked if there are there things that residents can do to better preserve these trees.

Mr. Linkletter responded that there are a lot of things. Staff has talked previously about getting more information out to the public. He referred to the web site. There are a number of fact sheets on the site. We are looking at ways to get more information out to homeowners. In some ways, we tend to be preaching to the choir a lot of times. The people who are interested in the information are largely already familiar with the subject.

Ms. Porter commented on some of the trees that have been lost in the vicinity of her home. This is an important effort. One thing that seems to be a problem with trees planted a couple of decades ago, is that trees were put in the wrong places. She suggested that Mr. Linkletter's plan include more thought about what species are appropriate for different locations.

Mr. Linkletter agreed, noting that he was talking to PEPCO about how they arrived at the decision to plant pin oaks under the power lines. They are willing to remove the trees and grind the stumps if the city is willing to replant trees. We would need to have a pretty good consensus among residents on Maple to do this.

Ms. Austin-Lane indicated that she is working on this effort.

Mr. Seamens remarked that Mr. Finn should ensure that this is a consideration in any work that takes place on Maple.

Mr. Elrich said that he appreciates the work that has gone into this, but recognized the budget impact. We have been told that we are going into a difficult budget year. On the other hand, the plan has a long-term approach. He commented that he wants to be able to do something. The purchase of the cheaper trees is an option.

Ms. Porter stated that if we have to forego some planting of large trees, we could invest in the purchase of smaller trees.

Mr. Linkletter noted that we are expecting a large visit of Cicadas this year. Consequently, it is not a good idea to plant trees in the Spring. This is the 17-year visit of the insects. It would be best to plant trees in late June.

Ms. Porter questioned whether this is also true for bushes.

Mr. Linkletter responded that he does not know, but would have to think that a Cicada would not know the difference between a small tree or a bush.

Ms. Porter observed that this would be a good topic for the Newsletter.

Mr. Linkletter agreed.

Ms. Porter concurred with Mr. Elrich's budget concern. The Council has to wait on deciding about the budget for the plan. She said that she would oppose imposing a fee for tree permit waivers. If the City is asking people to take down dead trees, she does not think that it should charge for the related permit.

Mr. Williams remarked that he appreciates the position that staff has put the Council in by providing the budget information.

Ms. Porter agreed. Staff has a "yes" from the Council, in theory. However, we should see how the plan does in the budget discussion. She thanked staff for a very thorough plan.

## **10. Leaf Collection.**

Mr. Lott noted that staff started the planning for the season last March. We looked at the things that went wrong in the previous year and brought together a work group to analyze the process. Then we drafted a "Lessons Learned" document and a plan for the Leaf Collection Operation that included everyone in the organization. He explained details about how the process was carried out and some of the aspects that were studied. We conducted training about techniques to operate equipment and perform maintenance on trucks. A new standard for the leaf collection technicians was written. There was great success with maintenance of equipment. Employee leave allowances were frozen during the collection period. Staff used two methods of tracking the collection capacity. At the end of every week, we had an after action review of the week's work. We found that it took us 9-15 days to get through the city. It equals 2.5 to 4 circuit collections per person in the city. This is pretty standard for people in this region. Even with the snow, we were able to pretty much clean up the city by end of December.

Ms. Porter noted that she has been telling people that if they rake their leaves to the curb, then they will be picked up within a week. However, she has heard from some who indicated that they had to wait 2 weeks for collection. Surely, the city should not be publicizing a one-week collection if that is not the practice. Alternatively, she said that she is not sure that it is helpful to tell people that the leaves will be collected within 2-3 weeks. Does this raise the issue of going back to a designated collection date process?

Mr. Lott responded that staff found that telling residents that we will pick up within a week is not realistic. We respond to call-ins and work a regular route.

Deputy City Manager Hobbs added that when we designated areas for date collections, it required more staff work. We made a budget cut of two staff members when the system was changed. If we were to go back to the old system, staff would make the argument that more

employees would need to be hired.

Ms. Austin-Lane commented that she heard from residents who think the new system is working better than the old system. This system might just need some tweaking. What if the system was only driven by call-ins? The city could set a response date expectation from the time a call is received. This would eliminate the circuit approach. She asked for an evaluation of this idea.

Mr. Elrich remarked that the big conflict is between the call-in and circuit systems. He noted that he had residents complain about leaves being out for 2-3 weeks. The leaves were blown around and had to be re-raked. Some residents reported having called in and still did not get a response for 2-3 weeks. Did the Sanitation crews assist in reporting the locations of leaves?

Ms. Austin-Lane questioned whether people working the collection circuits have a connection with Sanitation crews.

Mr. Lott responded in the negative.

Ms. Austin-Lane commended the Public Works response to the call-ins. People felt that the city was responding and listening.

Mr. Elrich suggested that staff needs to look at what is the best way to get information to the crews that are collecting leaves. He proposed that the sanitation crews play a role. He commended Mr. Lott on the other part of the program (training and keeping equipment on the road). There was a real improvement over the prior year.

Mr. Lott noted that the department received few complaints compared to last year and assured the Council that staff reacted to peoples' requests. Staff felt that the process was better managed. He said that he will take a look at the idea to only respond to call-ins. He commented on the standard in the rest of the region which involves a weekly posting, instructing residents to rake and know that sometime within the week, leaves will be collected.

Ms. Mizeur stated that she would also like to see the idea of sole pick-up on a circuit basis without responses to call-ins.

Ms. Porter remarked that staff may find other ways to post for collection that would not require the additional staff resources.

Ms. Mizeur expressed appreciation to Mr. Lott's responses to calls from her Ward.

Mr. Lott agreed with the point that there are conflicts with the circuit and the call-in approach. If the residents can exercise the patience that most did, we can continue to respond in both manners. We can always benefit from more reports from residents of areas that need attention.

Mr. Seamens asked whether there were any areas of the city that did not receive service.

Mr. Lott responded in the negative. Crews got through entire city at least twice. In some neighborhoods, we went through four times (as a result of call-ins).

Mr. Seamens commended staff for the work put into this effort (planning, strategizing, record keeping, and follow-up) evidenced by all of the information that the Council has been provided tonight. He expressed hope that Mr. Lott still looks at the great latitude he has to refine the program for next year. He commented on options for notice.

Mr. Lott responded that there are several streets that we did post for collection (i.e., state highways), adding that he wants to develop the best system to speed-up and make things more efficient, to meet the desires of residents. He noted that he will be meeting with staff for follow-up in the next couple of months.

Mr. Seamens remarked that he got calls about lack of thorough clean-up in the first couple weeks of the program. He suggested that the department try some other efforts of notification to set expectations.

Mr. Lott explained that staff started the program with a focus on speed and collection of the piles, without a complete clean-up of the street.

Mr. Williams noted Ms. Mizeur's suggestion. There are some people who will rake when they want to and then call, but there are some other people who want a schedule (possibly, based on a color coded map on the web site). He referred to a memo and the collection standard (i.e., 72 hour rule and 24 hour call-back rule). In general, the goal for collection is within 72 hours of a call-in. Did that happen?

Mr. Lott estimated that it had, about 62% of the time. One of the conditions is the volume of leaves.

Ms. Porter thanked Mr. Lott for the organization and the work put into this document. We need to continue work on communications and giving people reasonable expectations. The City can improve service by being clearer with the public about expectations and that we follow through on the same.

Mr. Lott noted that the city ran the collection service past the end date that we had established. Our residents have high expectations. We do not want to be untruthful.

Ms. Porter commented that if we extend the deadline, then staff should provide notice to the public.

## **ADJOURNMENT**

The Council adjourned for the evening at 10:44 p.m.